

Message Text

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15

ORIGIN EB-06

INFO OCT-01 AF-10 ARA-10 EUR-12 EA-10 NEA-10 IO-10 ISO-00

CIAE-00 COME-00 DODE-00 DOTE-00 FMC-02 INR-07 NSAE-00

RSC-01 CG-00 COA-01 DLOS-05 SWF-01 PCH-10 L-02 SP-02

OMB-01 TRSE-00 STR-04 TAR-01 SS-15 NSC-05 /126 R

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DRAFTED BY:EB/TT/MA:JPSTEINMETZ

APPROVED BY:EB/TT/MA:RKBANK

MARAD:RGAGE

FMC:WJSMITH

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R 052229Z NOV 74

FM SECSTATE WASHDC

TO AMEMBASSY ABIDJAN

AMEMBASSY ACCRA

USINT ALGIERS

AMCONSUL ANTWERP

AMEMBASSY ASUNCION

AMEMBASSY ATHENS

AMEMBASSY BANGKOK

AMEMBASSY BELGRADE

AMEMBASSY BERN

AMEMBASSY BOGOTA

AMCONSUL BOMBAY

AMEMBASSY BONN

AMEMBASSY BRASILIA

AMEMBASSY BRUSSELS

AMEMBASSY BUENOS AIRES

AMEMBASSY CANBERRA

AMCONSUL CAPE TOWN

AMEMBASSY CARACAS

AMEMBASSY COLOMBO

AMEMBASSY COPENHAGEN

AMEMBASSY DACCA

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AMEMBASSY DAKAR

AMEMBASSY DAR ES SALAAM

AMEMBASSY GUATEMALA

AMCONSUL GUAYAQUIL

AMCONSUL HAMBURG
AMEMBASSY HELSINKI
AMCONSUL HONG KONG
AMEMBASSY ISLAMABAD
AMEMBASSY JAKARTA
AMCONSUL JOHANNESBURG
AMCONSUL KARACHI
AMEMBASSY KINGSTON
AMEMBASSY KINSHASA
AMEMBASSY KUALA LUMPUR
AMEMBASSY KUWAIT
AMEMBASSY LAGOS
AMEMBASSY LA PAZ
AMEMBASSY LIMA
AMEMBASSY LISBON
AMEMBASSY LONDON
AMEMBASSY MADRID
AMEMBASSY MANAGUA
AMEMBASSY MANILA
AMEMBASSY MEXICO
AMEMBASSY MONROVIA
AMEMBASSY MONTEVIDEO
AMEMBASSY MOSCOW
AMEMBASSY NAIROBI
AMEMBASSY NEW DELHI
AMEMBASSY OSLO
AMEMBASSY OTTAWA
AMEMBASSY PANAMA
AMEMBASSY PARIS
USLO PEKING
AMEMBASSY PRETORIA
AMEMBASSY QUITO
AMEMBASSY RABAT
AMEMBASSY RANGOON
AMCONSUL RIO DE JANEIRO
AMEMBASSY ROME
AMCONSUL ROTTERDAM
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AMEMBASSY SAN JOSE
AMEMBASSY SAN SALVADOR
AMEMBASSY SANTIAGO
AMEMBASSY SANTO DOMINGO
AMEMBASSY SEOUL
AMEMBASSY SINGAPORE
AMEMBASSY STOCKHOLM
AMCONSUL SYDNEY
AMEMBASSY TAIPEI
AMEMBASSY TEGUCIGALPA
AMEMBASSY TEHRAN
AMEMBASSY THE HAGUE
AMEMBASSY TOKYO

AMEMBASSY TRIPOLI
USMISSION GENEVA
USMISSION OECD PARIS
USMISSION EC BRUSSELS
AMEMBASSY WARSAW
AMEMBASSY WELLINGTON
AMEMBASSY ANKARA BY POUCH
AMEMBASSY BEIRUT BY POUCH
AMEMBASSY CAIRO BY POUCH
AMEMBASSY JIDDA BY POUCH
AMEMBASSY TEL AVIV BY POUCH

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C O R R E C T E D COPY (LAST LINE OF PARA 5)

E.O. 11652:N/A

TAGS: EWWT

SUBJECT: IMPLEMENTING REGULATIONS FOR SECTION 19, MERCHANT
MARINE ACT, 1920

REF: STATE 225812 (NOTAL)

1. AFTER MONTHS OF STUDY AND CONSIDERATION, THE FEDERAL
MARITIME COMMISSION (FMC) APPROVED NEW REGULATIONS (GENERAL
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ORDER NO. 33) FOR SECTION 19, MERCHANT MARINE ACT OF 1920.
THE NEW REGULATIONS WERE PUBLISHED IN THE FEDERAL REGISTER
ON NOVEMBER 1, 1974 AND BECOME EFFECTIVE 30 DAYS FROM THAT
DATE.

2. THE PURPOSE OF THE NEW REGULATIONS IS TO SET FORTH THOSE
CONDITIONS CONSIDERED UNFAVORABLE TO SHIPPING IN THE U.S.
FOREIGN TRADE WHERE THE FMC UNDER SECTION 19 COULD INVOKE
COUNTERVAILING MEASURES, THE PROCEDURE AND REQUIREMENTS
FOR PETITIONING THE FMC FOR RELIEF, AND THE TYPE OF REGULA-
TORY COUNTER MEASURES CONTEMPLATED.

3. CONDITIONS CONSIDERED UNFAVORABLE ARE THOSE WHICH
A) IMPOSE UPON VESSELS...FEES, CHARGES, REQUIREMENTS, OR
RESTRICTIONS DIFFERENT FROM THOSE IMPOSED ON OTHER
VESSELS COMPETING IN THE TRADE, OR WHICH PRECLUDE OR TEND

TO PRECLUDE VESSELS IN THE FOREIGN TRADE OF THE UNITED

STATES FROM COMPETING IN THE TRADE ON THE SAME BASIS AS
ANY OTHER VESSEL; B) RESERVE SUBSTANTIAL CARGOES TO THE
NATIONAL FLAG OR OTHER VESSELS AND FAIL TO PROVIDE, ON
REASONABLE TERMS, FOR EFFECTIVE AND EQUAL ACCESS TO SUCH

CARGO BY VESSELS IN THE FOREIGN TRADE OF THE UNITED STATES; C) ARE OTHERWISE DISCRIMINATORY OR UNFAIR TO VESSELS IN THE FOREIGN TRADE OF THE UNITED STATES; D) ARE DISCRIMINATORY OR UNFAIR AS BETWEEN CARRIERS, SHIPPERS, EXPORTERS, IMPORTERS, OR POSTS OR BETWEEN EXPORTERS FROM THE UNITED STATES AND THEIR FOREIGN COMPETITORS AND WHICH CANNOT BE JUSTIFIED UNDER GENERALLY-ACCEPTED INTERNATIONAL AGREEMENTS OR PRACTICES AND WHICH OPERATE TO THE DETRIMENT OF THE FOREIGN COMMERCE OR THE PUBLIC INTEREST OF THE UNITED STATES.

4. COUNTERVAILING ACTIONS WHICH MAY BE EFFECTED ARE THE A) IMPOSITION OF EQUALIZING FEES OR CHARGES; B) LIMITATION OF SAILINGS TO AND FROM UNITED STATES PORTS OR OF AMOUNT OR TYPE OF CARGO DURING A SPECIFIED PERIOD; C) SUSPENSION, IN WHOLE OR IN PART, OF ANY OR ALL TARIFFS FILED WITH THE COMMISSION FOR CARRIAGE TO OR FROM THE UNCLASSIFIED

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UNITED STATES PORTS; AND D) ANY OTHER ACTION THE COMMISSION FINDS NECESSARY AND APPROPRIATE IN THE PUBLIC INTEREST TO ADJUST OR MEET ANY CONDITION UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES.

5. THE RULES INDICATE THAT THE FULL AUTHORITY OF THE ACT WILL BE INVOKED TO COUNTER ANY DISCRIMINATORY PRACTICE (WHETHER THE RESULT OF FOREIGN GOVERNMENT OR PRIVATE SECTOR ACTION AND IRRESPECTIVE OF THE REASON THEREFOR) FOUND TO BE UNFAVORABLE TO SHIPPING IN THE U.S. FOREIGN TRADE. THE COMMISSION IS NOT PRECLUDED FROM ISSUING COUNTERVAILING REGULATIONS STRAIGHT AWAY WHEN A FINDING IS MADE THAT UNFAVORABLE CONDITIONS EXIST. HOWEVER, IN INSTANCES WHERE A DISCRIMINATORY PRACTICE IS CONFIRMED, THE FMC MAY REQUEST THE SECRETARY OF STATE TO UNDERTAKE EFFORTS TO RESOLVE THE MATTER THROUGH DIPLOMATIC CHANNELS. MOREOVER, POSTPONEMENT, DISCONTINUANCE, OR SUSPENSION OF A SECTION 19 ACTION BY THE FMC IS PROVIDED FOR IN THE EVENT THE PRESIDENT INFORMS THE FMC SUCH IS REQUIRED FOR REASONS OF FOREIGN POLICY OR NATIONAL SECURITY.

6. THE MAIN REASON FOR ISSUING NEW REGULATIONS WAS THE RECOGNITION THAT THE EXISTING PROCEDURES (GENERAL ORDER NO. 8) WERE TOO GENERAL AND INSUFFICIENT TO PROMPTLY AND ADEQUATELY DEAL WITH QUICKLY CHANGING CONDITIONS ADVERSELY AFFECTING U.S. FOREIGN TRADE SHIPPING, PARTICULARLY CARGO RESERVATION LEGISLATION AND BILATERAL SHIPPING AGREEMENTS WHICH EXCLUDE U.S. CARRIERS FROM ACCESS TO COMMERCIAL CARGOES.

7. GENERAL ORDER NO. 33 IS NOT DIRECTED AGAINST ANY PARTICULAR COUNTRY OR GROUP OF COUNTRIES. NEVERTHELESS,

ITS PUBLICATION COMING AS IT DOES ON THE HEELS OF THE ADOPTION OF THE UN CONVENTION ON A CODE OF CONDUCT FOR LINER CONFERENCES (APRIL, 1974), WHICH THE USG OPPOSES, CAN BE EXPECTED TO BE INTERPRETED BY SOME COUNTRIES AS A USG RESPONSE THERETO EVEN THOUGH THE RULE-MAKING PROCEDURES WERE INITIATED BY THE FMC IN DECEMBER, 1972. THE CODE, WHICH CONTAINS A NUMBER OF UNACCEPTABLE PROVISIONS, INTER ALIA, CARGO SHARING PROVISIONS OF A MANDA-
UNCLASSIFIED

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TORY NATURE, HAS NOT ENTERED INTO FORCE. MOREOVER, IT IS UNCLEAR WHETHER ENOUGH COUNTRIES WITH SUFFICIENT TONNAGE (AT LEAST 24 COUNTRIES WITH 25 PERCENT OF THE WORLD LINER TONNAGE) WILL BECOME PARTIES THERETO TO IMPLEMENT IT. CONCEIVABLY, IN THE EVENT THE CONVENTION IS NOT EFFECTED, MANY GOVERNMENTS MAY TAKE STEPS TO IMPLEMENT CERTAIN RESTRICTIVE PRINCIPLES OF THE CODE UNILATERALLY (A NUMBER OF COUNTRIES ALREADY HAVE RESTRICTIVE CARGO PREFERENCE LEGISLATION PREDATING THE ADOPTION OF THE CODE). IN SUCH INSTANCES, SHOULD U.S. FOREIGN TRADE INTERESTS BE ADVERSELY AFFECTED AND BARRING AN ACCEPTABLE ACCOMMODATION, SECTION 19 ORDERS MIGHT BE INVOKED.

8. THE DEPARTMENT IS AIR POUCHING COPIES OF THE REGULATIONS TO ADDRESSEE POSTS. POST MAY DRAW ON THE REGULATIONS AND THE FOREGOING AS APPROPRIATE TO RESPOND TO ANY INQUIRIES. MAW

NOTE BY OC/T: POUCHED ANKARA BEIRUT CAIRO JIDDA AND TEL AVIV.

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Message Attributes

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Draft Date: 05 NOV 1974
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Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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30 JUN 2005

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Status: NATIVE
Subject: IMPLEMENTING REGULATIONS FOR SECTION 19, MERCHANT MARINE ACT, 1920
TAGS: EWWT
To: ABIDJAN
ACCRA
ALGIERS
ANTWERP
ASUNCION
ATHENS
BANGKOK

BELGRADE
BERN
BOGOTA
BOMBAY
BONN
BRASILIA
BRUSSELS
BUENOS AIRES
CANBERRA
CAPE TOWN
CARACAS
COLOMBO
COPENHAGEN
DACCA
DAKAR
DAR ES SALAAM
GUATEMALA
GUAYAQUIL
HAMBURG
HELSINKI
HONG KONG
ISLAMABAD
JAKARTA
JOHANNESBURG
KARACHI
KINGSTON
KINSHASA
KUALA LUMPUR
KUWAIT
LAGOS
LA PAZ
LIMA
LISBON
LONDON
MADRID
MANAGUA
MANILA
MEXICO
MONROVIA
MONTEVIDEO
MOSCOW
NAIROBI
NEW DELHI
OSLO
OTTAWA
PANAMA
PARIS
PEKING
PRETORIA
QUITO
RABAT
RANGOON
RIO DE JANEIRO
ROME
ROTTERDAM
SAN JOSE
SAN SALVADOR
SANTIAGO
SANTO DOMINGO
SEOUL
SINGAPORE
STOCKHOLM
SYDNEY
TAIPEI
TEGUCIGALPA
TEHRAN
THE HAGUE
TOKYO
TRIPOLI
GENEVA
OECD PARIS
EC BRUSSELS
WARSAW
WELLINGTON
ANKARA BY POUCH
BEIRUT BY POUCH
CAIRO BY POUCH
JIDDA BY POUCH
TEL AVIV BY POUCH

Type: TE

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